

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BRANDYWINE COMMUNICATIONS
TECHNOLOGIES,

Plaintiff,

v.

AASTRA USA, INC.,

Defendants.

Civil Action No. 12-1780-SLR

Civil Action No. 13-1193-SLR

BRANDYWINE COMMUNICATIONS
TECHNOLOGIES,

Plaintiff,

v.

ALCATEL LUCENT USA, INC.,

Defendant.

Civil Action No. 13-1192-SLR

BRANDYWINE COMMUNICATIONS
TECHNOLOGIES,

Plaintiff,

v.

ALLWORX CORPORATION,

Defendant.

Civil Action No. 12-1782-SLR

Civil Action No. 13-1194-SLR

BRANDYWINE COMMUNICATIONS
TECHNOLOGIES,

Plaintiff,

v.

ZULTYS, INC.,

Defendant.

Civil Action No. 12-1787-SLR

Civil Action No. 13-1195-SLR

JOINT STIPULATION

WHEREAS Plaintiff Brandywine Communications Technologies, LLC (“Brandywine”) and Defendants Aastra USA, Inc. (“Aastra”), Alcatel-Lucent USA, Inc. (“Alcatel”), Allworx Corporation (“Allworx”), and Zultys, Inc. (“Zultys”) have met and conferred regarding the above captioned cases;

WHEREAS, Brandywine notified Defendants that Brandywine had recently become aware of a potential unintentional gap in the chain of title to the ’142 Patent and that Brandywine has taken steps to remedy the unintentional gap;

WHEREAS, Federal Circuit case law, including *Abraxis Bioscience, Inc. v. Navinta LLC*, 625 F.3d 1359 (Fed. Cir. 2010), may require that the claims relating to the ’142 Patent in the original complaint be dismissed without prejudice and a new complaint filed due to lack of standing with respect to the ’142 Patent at the time the original complaints were filed;

WHEREAS, Brandywine filed a notice of voluntary dismissal of Case No. 1:12-cv-01781-SLR against Alcatel, without prejudice, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i);

WHEREAS, Brandywine filed a new complaint against Alcatel for infringement of the ’142 Patent after taking steps to remedy the chain of title issue, and that case has been assigned Case No. 1:13-cv-01192-SLR;

WHEREAS, Brandywine filed a notice of dismissal without prejudice of all claims relating to the '142 Patent from Case No 1:12-cv-1787-SLR against Zultys pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i);

WHEREAS, Brandywine has filed a new complaint against Zultys for infringement of the '142 Patent after taking steps that Brandywine believes corrects the unintentional gap in the chain of title, and that case has been assigned Case No. 1:13-cv-01195-SLR;

WHEREAS, Brandywine and Aastra agree that all claims relating to the '142 Patent from Case No 1:12-cv-1780-SLR should be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii);

WHEREAS, Brandywine has filed a new complaint against Aastra for infringement of the '142 Patent after taking steps that Brandywine believes corrects the unintentional gap in the chain of title, and that case has been assigned Case No. 1:13-cv-01193-SLR;

WHEREAS, Brandywine and Allworx agree that all claims relating to the '142 Patent from Case No 1:12-cv-1782-SLR should be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii);

WHEREAS, Brandywine has filed a new complaint against Allworx for infringement of the '142 Patent after taking steps that Brandywine believes corrects the unintentional gap in the chain of title, and that case has been assigned Case No. 1:13-cv-01194-SLR;

WHEREAS, the parties agree that all of these cases (i.e., the remaining three original cases and the four new cases) should be governed by the Rule 16 Order already issued by the Court in the original cases with the schedule modified as set forth in the attached proposed Rule 16 order;

NOW, THEREFORE, the Parties, by and through their respective attorneys, hereby stipulate and agree as follows:

1. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Brandywine and Aastra stipulate and agree that the claims relating to the '142 Patent in Case No. 1:12-cv-01780-SLR are hereby dismissed without prejudice, including all counterclaims relating to the '142 Patent.

2. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Brandywine and Allworx stipulate and agree that the claims relating to the '142 Patent in Case No. 1:12-cv-01782-SLR are hereby dismissed without prejudice, including all counterclaims relating to the '142 Patent.

3. Defendants Aastra, Alcatel, and Allworx stipulate and agree to accept service of the newly filed complaints by e-mail to counsel of record in the previously filed case.

4. Aastra and Brandywine stipulate and agree that Case No. 1:13-cv-01193-SLR shall be consolidated with Case No. 1:12-cv-1780-SLR.

5. Allworx and Brandywine stipulate and agree that Case No. 1:13-cv-01194-SLR shall be consolidated with Case No. 1:12-cv-1782-SLR.

6. Zultys and Brandywine stipulate and agree that Case No. 1:13-cv-01195-SLR shall be consolidated with Case No. 1:12-cv-1787-SLR.

7. All parties agree that the proposed Rule 16 Order attached hereto as Attachment A should apply to all seven of the above-captioned cases, subject to the Court's approval, replacing the schedule currently set forth in the original Rule 16 Order dated May 15, 2013. D.I. 17.

8. The parties disagree as to whether, pursuant to 35 U.S.C. §287, Brandywine could

give actual notice of infringement if Brandywine was not the owner of the '142 patent. All parties agree that no arguments regarding Brandywine's compliance with 35 U.S.C. §287 are waived as a result of this stipulation.

DATED: September 18, 2013

/s/ Stamatios Stamoulis

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Attorneys for Defendant Zultys, Inc.

SO ORDERED this ____ day of _____ 2013.

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2013, I electronically filed the foregoing filing with the Clerk of Court using the CM/ECF system which will send notification of such filing via electronic mail to all counsel of record.

/s/ Stamatios Stamoulis

Stamatios Stamoulis